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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

DARIUS EDWARD BARKSDALE,

Defendant and Appellant.

B218404

(Los Angeles County  
Super. Ct. No. MA043918)

APPEAL from a judgment of the Superior Court of Los Angeles County. Charles Chung, Judge. Affirmed.

Darius Edward Barksdale, in pro. per.; and Ann Krausz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \* \* \*

On count 1, appellant Darius Edward Barksdale was convicted of a felony, carjacking (Pen. Code, § 215, subd. (a)). On count 2, he was convicted of a misdemeanor, driving under the influence of alcohol or drugs (Veh. Code, § 23152, subd. (a)). The information also had two counts that were dismissed pursuant to a defense Penal Code section 1118.1 motion. Those counts alleged driving with a blood alcohol level of 0.08 percent or higher (Veh. Code, § 23152, subd. (b)) and driving with a suspended or revoked driver's license (Veh. Code, § 14601, subd. (a)).

Appellant was sentenced to the low term of three years in prison on count 1, plus a six-month concurrent sentence on count 2. He initially received 320 days of presentence custody credit, which was 279 days of actual custody and 41 days of good time/work time credit. After his counsel filed a motion for additional credits, he received two more days of total credit, due to an additional day of actual custody and an additional day of good time/work time credit.

Appellant's counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues on the appeal. Appellant was notified that he could file his own brief and did so.

Viewed in the light most favorable to the prosecution (*People v. Catlin* (2001) 26 Cal.4th 81, 139), the evidence showed: About 8:00 p.m. on October 31, 2008, a 16-year-old boy named John M. was alone inside his grandmother's parked minivan, waiting for his older brother and niece to come outside. He was in the front passenger seat, and the door next to him was open. The keys were in the ignition, and he was listening to the radio. Appellant and a woman came out of the condominium complex and walked toward the minivan. Appellant stumbled and appeared to be drunk. He wore a tank top and his hands were bandaged. He suddenly opened the driver's door of the minivan, got inside, and forcibly pushed John out of the minivan. Appellant's female companion jumped into the minivan, and appellant drove it away. The incident was immediately reported to the police.

Several hours later, a California Highway Patrol officer saw the minivan parked in a desolate area of Lancaster. When the officer turned her spotlights on the minivan,

appellant got out of it. He was alone. He wore a tank top and his hands were bandaged. His eyes were watery and bloodshot, he smelled of alcohol, and he failed a field sobriety test.

Appellant's wife testified that appellant was drunk from vodka that day. She followed him out of the condominium complex after he argued with another man. He suddenly entered the minivan, and a boy jumped out of it. According to appellant's wife, appellant did not touch the boy or order him to leave the minivan. She saw appellant drive away in the minivan, but she herself did not enter it.

In his supplemental letter brief, appellant essentially complains about various things that his defense counsel did not do. To succeed on a claim of ineffective assistance of counsel, he would have to show both that (1) "counsel's performance was deficient," and (2) "the deficient performance prejudiced the defense." (*Strickland v. Washington* (1984) 466 U.S. 668, 687; see also *People v. Benavides* (2005) 35 Cal.4th 69, 92-93.) "Reviewing courts defer to counsel's reasonable tactical decisions, and there is strong presumption that counsel's conduct falls within range of reasonable professional assistance." (5 Witkin & Epstein, Cal. Criminal Law (3d ed. 2000) Criminal Trial, § 204, p. 320.) Appellant has not met his burden of establishing either deficient performance or resulting prejudice.

Having reviewed the entire record, we find that appellant's attorney has fully complied with his responsibilities, and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 276; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124; *Wende, supra*, 25 Cal.3d at p. 441.)

### **DISPOSITION**

The judgment is affirmed.

FLIER, J.

We concur:

BIGELOW, P. J.

RUBIN, J.